

REMARKS

This is a full and timely response to the outstanding nonfinal Office Action mailed December 12, 2002. Reconsideration and allowance of the application and presently pending claims 11-14, as amended, are respectfully requested.

1. Present Status of Patent Application

Upon entry of the amendments in this response, claims 11-14 remain pending in the present application. More specifically, claim 11 is directly amended. It is believed that the foregoing amendments add no new matter to the present application.

2. Response to Drawing Objections

The drawings have been objected to as failing to comply with 37 C.F.R. 1.84(p)(5) for including reference signs not mentioned in the description, more specifically reference numeral 53. As such, Applicant has proposed a modification to the specification, thereby incorporating reference numeral 53.

The drawings have been objected to as failing to comply with 37 C.F.R. 1.84(p)(4) because the reference numeral 46 has been used to designate both a fastener (FIG. 2) and projection (FIG. 1). To clarify this issue, the attached version of FIG. 2 has been amended such that the lead line from reference numeral 46 points to the projection. Therefore, reference numeral 46 refers to the projection in both FIGs. 1 and 2.

3. Response To Claim Objections

Claim 11 has been objected to because on lines 6 and 7, --upper and lower-- should be inserted before "projections" and "apertures" for consistency. Applicant has so amended independent claim 11.

4. Response to Claim Rejections under 35 U.S.C. §112

Claims 11 through 14 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

Applicant regards as the invention. More specifically, claim 11 recites the limitation "said support" in line 2, for which there is insufficient antecedent basis in the claim. Applicant has amended claim 11 to clarify the claimed subject matter. As such, Applicant contends the rejection of claims 11 through 14 under 35 U.S.C. §112, second paragraph, should be withdrawn.

5. Response to Claim Rejections under 35 U.S.C. §103

In the Office Action, claims 11 through 14 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 4,222,093 to *Garcia et al.* (hereinafter *Garcia*). It is well established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. *See, e.g., In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

Applicant respectfully traverses this rejection on the grounds that *Garcia* does not disclose, teach or suggest each and every element of the claims.

Independent claim 11, as amended, recites;

A wall mountable outdoor light fixture assembly comprising:

a first support located on said light fixture, said ***first support including a planar section having at least one upper aperture and two opposingly located lower apertures;***

a second support adapted to be secured to a vertical support surface and adapted to engage said first support, said ***second support including a planar section having at least one upper projection and at least two opposingly located and linearly spaced apart lower projections***, said upper and lower projections positioned to align with said upper and lower apertures on said first support;

whereby said lower projections are first insertable through said lower apertures to permit said light fixture to rest upon said lower projections and to be rotated upwardly so that said upper projection is inserted through said upper aperture to secure said light fixture to said support surface ***and to cause said planar sections to abut.*** (Emphasis added).

The Office Action contends that *Garcia* discloses "a first planar support section (18) including one upper projection (50)...and one upwardly angled lower projection (48) positioned to align with the upper (defined between 44) and lower (40) apertures of a planar section (38) of

a second support (16).” The Office Action goes on to contend that once assembled, the light fixture assembly of *Garcia* will “cause the planar sections (18, 38) to abut.” Applicant contends that *Garcia* simply does not disclose “a planar section (38) of a second support (16).”

In describing FIGs. 1-3, *Garcia* provides “plate 16 further includes a peripheral, downwardly extending tubular wall portion 36 of circular configuration which terminates in a rounded marginal lip 38.” (Col. 2, lines 38-41). Clearly, the “rounded marginal lip” indicated by reference numeral 38 in FIGs. 1-3 of *Garcia* does not disclose, teach or suggest a “planar section.” Moreover, as seen in the figures, it is apparent that the apertures as referred to in the Office Action are actually disposed in the “downwardly extending tubular wall portion 36,” which is not “planar.” The “tubular wall portion” as shown in *Garcia* also does not disclose, teach or suggest a “planar section” as alleged in the Office Action.

As well, in that the “rounded marginal lip 38” of *Garcia* is not a planar section, *Garcia* cannot be said to disclose, teach or suggest the element of two abutting planar sections for the assembled light fixture assembly, as claimed in independent claim 11. Rather, *Garcia* discloses a housing with a hollow interior as formed by planar section 18 and the “ceiling engaging circular portion 28.”


By providing supports with planar sections having apertures and projections, the light fixture can be more easily mounted against a vertical surface because the alignment is accomplished parallel to the vertical support surface. In contrast, the *Garcia* device must be aligned both parallel and perpendicular to the ceiling in order to align the *Garcia et al.* pin 48 with the slot 40 of the back plate 16. In fact, if the *Garcia* device were secured to a vertical support surface, the *Garcia* tubular wall surface 36 would receive unnecessarily high bending stresses due to its horizontal cantilevered arrangement.

Thus, based on the foregoing noted deficiencies, *Garcia* does not render independent claim 11 obvious, and it is respectfully requested that the rejection be withdrawn. Furthermore, because independent claim 11 is believed to be allowable over the prior art of record, dependent claims 12-14 (which depend from independent claim 11) are allowable as a matter of law for at least the reason that dependent claims 12-14 contain all features/elements/steps of independent claim 11. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 11-14 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



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